

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

RONNIE TOWNSEND, #121142,)
Plaintiff,)
v.) CIVIL ACTION NO. 2:06-CV-564-MHT
CAPTAIN ATWOOD, et al.,)
Defendants.)

ORDER ON MOTION

Upon review of the document filed by the plaintiff on September 28, 2006 (Court Doc. No. 13), which the court construes to contain a motion to substitute Captain Atwood Edward as a defendant for Captain Atwood, and for good cause, it is

ORDERED that:

1. The motion to substitute be and is hereby GRANTED and Captain Atwood Edward be and is hereby substituted as a defendant in this cause of action for Captain Atwood.
2. Captain Atwood Edward undertake a review of the subject matter of the complaint
 - (a) to ascertain the facts and circumstances of this complaint; (b) to consider whether any action should be taken to resolve the subject matter of the complaint; and (c) to determine whether other similar complaints, whether pending in this court or elsewhere, should be considered together.
3. On or before October 23, 2006, Captain Atwood Edward shall file a written report containing the sworn statements of all persons having knowledge of the subject matter of the complaint. Authorization is hereby granted to interview all witnesses, including the plaintiff.

Whenever relevant, copies of medical and/or psychiatric records shall be attached to the written report. Where the plaintiff's claims or the defendants' defenses relate to or involve the application of administrative rules, regulations or guidelines, the written report shall include copies of all such applicable administrative rules, regulations or guidelines.

4. No motion for summary judgment, motion to dismiss or any other dispositive motions addressed to the complaint be filed by any party without permission of the court. If any pleading denominated as a motion for summary judgment, motion to dismiss or other dispositive motion is sent to the court, the court shall not file or otherwise treat the pleading as a dispositive motion until and unless further order of the court.

5. On or before October 23, 2006, Captain Atwood Edward shall file an answer to the complaint.

6. NOTICE TO PLAINTIFF.

(a) The *Federal Rules of Civil Procedure* require that the plaintiff mail to the lawyer for the defendants or, if no attorney has appeared on behalf of the defendants, the defendants themselves a true copy of anything which he sends to the court. Failure to do so may result in dismissal of this case or other penalties. Anything filed should contain a certificate of service which specifically states that the pleading has been sent to the lawyer for the defendants. If the pleading does not contain a certificate of service, it will not be accepted for filing.

(b) With the exception of the complaint and any response ordered by the court, “[n]o

other pleading shall be allowed" in this cause of action. Rule 7(a), *Federal Rules of Civil Procedure*.

(c) Each pleading, motion or other application submitted to the court shall contain "a caption setting forth the name of the court, title of the action, the file number, and a designation[,"] Rule 10(a), *Federal Rules of Civil Procedure*, and must be signed by the plaintiff. Rule 11(a), *Federal Rules of Civil Procedure*.

(d) Every application which requests an order or particular action by the court "shall be [presented] by motion which, unless made during a hearing or trial, shall be made in writing." Rule 7(b)(1), *Federal Rules of Civil Procedure*. The application "shall set forth with particularity the grounds" for the motion and "the relief or order sought." *Id.* Additionally, the request or application for relief must contain a proper caption setting forth a title designation which specifically states the action that the applicant or movant wants the court to undertake. Rules 7(b)(2) and 10(a), *Federal Rules of Civil Procedure*. Any application or request which fails to comply with the directives of the civil rules as outlined in this order will not be accepted by the court for filing.

The plaintiff is hereby advised that the court will consider only those requests presented in an appropriate motion which is in the proper form. Consequently, any application for relief or request for action *must be contained in the title of the motion to warrant consideration by the court.*

(e) Any proposed amendments to this cause of action must be labeled with the words

"amendment to complaint" or similar language, shall contain claims or facts which relate to the original complaint, and must be accompanied by a motion for leave to amend.

Additionally, no further amendments will be allowed unless the plaintiff establishes extraordinary circumstances justifying why such claims were not previously presented to the court.

(f) It is the responsibility of the plaintiff to furnish the clerk's office with accurate addresses for the defendant(s) whom plaintiff wishes to serve. Without accurate addresses, service of process is impossible. It is also the responsibility of the plaintiff to monitor this case to make sure that the persons whom plaintiff wishes to sue have been served. If a person has not been served, he/she is not a party to this lawsuit except in very unusual circumstances.

The CLERK is hereby DIRECTED to furnish a copy of this order to the plaintiff and counsel of record for the original defendants. A copy of this order together with a copy of the complaint shall likewise be provided to Captain Atwood Edward at the Staton Correctional Facility, Elmore, Alabama.

Done this 2nd day of October, 2006.

/s/Charles S. Coody
CHARLES S. COODY
CHIEF UNITED STATES MAGISTRATE JUDGE